

fuel and NRLM diesel fuel subject to temporary refiner relief standards.

(j) The provisions of this section are available only to refineries that produce diesel fuel from crude.

(k) The individual refinery sulfur standard and the compliance plan will be approved or disapproved by the Administrator, and approval will be effective when the refiner receives an approval letter from EPA. Unless approved, the refiner or, where applicable, the importer must comply with the motor vehicle diesel fuel standard under § 80.520(a)(1) by the appropriate compliance date specified in § 80.500 or the NRLM diesel fuel standards and compliance dates under § 80.510(a), (b), and (c) as applicable.

(l) If EPA finds that a refiner provided false or inaccurate information on its application for hardship relief, EPA's approval of the refiners application will be void *ab initio*.

[66 FR 5136, Jan. 18, 2001, as amended at 69 FR 39181, June 29, 2004]

§ 80.561 How can a refiner or importer seek temporary relief from the requirements of this subpart in case of extreme unforeseen circumstances?

In appropriate extreme, unusual, and unforeseen circumstances (for example, natural disaster or refinery fire) which are clearly outside the control of the refiner or importer and which could not have been avoided by the exercise of prudence, diligence, and due care, EPA may permit a refiner or importer, for a brief period, to distribute motor vehicle diesel fuel or NRLM diesel fuel which does not meet the requirements of this subpart if:

(a) It is in the public interest to do so (e.g., distribution of the nonconforming diesel fuel is necessary to meet projected shortfalls which cannot otherwise be compensated for);

(b) The refiner or importer exercised prudent planning and was not able to avoid the violation and has taken all reasonable steps to minimize the extent of the nonconformity;

(c) The refiner or importer can show how the requirements for motor vehicle diesel fuel or NRLM diesel fuel will be expeditiously achieved;

(d) The refiner or importer agrees to make up any air quality detriment associated with the nonconforming motor vehicle diesel fuel or NRLM diesel fuel, where practicable;

(e) The refiner or importer pays to the U.S. Treasury an amount equal to the economic benefit of the nonconformity minus the amount expended pursuant to paragraph (d) of this section, in making up the air quality detriment; and

(f)(1) In the case of motor vehicle diesel fuel distributed under this section that does not meet the 15 ppm sulfur standard under § 80.520(a)(1), such diesel fuel shall not be distributed for use in model year 2007 or later motor vehicles, and must meet all the requirements and prohibitions of this subpart applicable to diesel fuel meeting the sulfur standard under § 80.520(c), or to diesel fuel that is not motor vehicle diesel fuel, as applicable.

(2) In the case of NRLM diesel fuel distributed under this section from June 1, 2007 through May 31, 2010 that does not meet the 500 ppm sulfur standard under § 80.510(a), such diesel fuel must meet the requirements and prohibitions applicable to high sulfur NRLM credit fuel under § 80.536(f)(1)(i) and (ii).

(3) In the case of NR diesel fuel distributed under this section after May 31, 2010 that does not meet the 15 ppm sulfur standard under § 80.510(b), such diesel fuel shall not be distributed for use in model year 2011 or later nonroad engines, and must meet all the requirements and prohibitions of this subpart applicable to diesel fuel meeting the sulfur standard under § 80.510(a) for NRLM diesel fuel.

(4) In the case of NRLM diesel fuel distributed under this section after May 31, 2012 that does not meet the 15 ppm sulfur standard under § 80.510(c), such diesel fuel shall not be distributed for use in model year 2011 or later nonroad engines, and must meet all the requirements and prohibitions of this subpart applicable to diesel fuel meeting the sulfur standard under § 80.510(a) for NRLM diesel fuel.

[66 FR 5136, Jan. 18, 2001, as amended at 69 FR 39181, June 29, 2004; 75 FR 22970, Apr. 30, 2010]